Form- A

FORM OF ORDER SHEET

Court of			
	16078		•
se No	1)010	/2020	

S.No.	Date of order	Order or other proceedings with signature of judge
3.IVU.	proceedings	Order of other proceedings with signature of Judge
1	2	3
1-	11/12/2020	The appeal presented today by Mr. Kamran Khan, Advoca
		may be entered in the Institution Register and put to the Learned Memb
		for proper order please.
		REGISTRAR
· .	1.07	This case is entrusted to S. Bench for preliminary hearing to be p
	68-02-	up there on $3/3/2/1$
		MEMBER(J)
3.03	2021	The learned Member Judicial Mr. Muhammad Jamal Khan
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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

APPEAL NO		/2020	
FAZAL UR RAHMAN	VS	EDUCATION	DEPTT:

INDEX

S.NO.	DOCUMENTS	ANNEXURE	PAGE
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2.	Notification	A	4.
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4.	Departmental appeal	D	7.
5.	Service Tribunal judgment	E	8- 9.
6.	Vakalat nama		10.

APPELLANT

THROUGH:

KAMRAN KHAN ADVOCATE

OFFICE: Flat No.4, 2nd Floor, Juma Khan Plaza, Near FATA Secretariat, Warsak Road, Peshawar. 0344-9118844

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

APPEAL NO. 15878/2020

Khyber Pakhtukhwa Service Tribunal

Mr. Fazal Ur Rahman, PSHT (BPS-15), GPS Shangla, District Shangla.

APPELLANT

VERSUS

- 1- The Government of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
- 2- The Secretary (E&SE) Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The Secretary Finance Department, Khyber Pakhtunkhwa, Peshawar.
- 4- The Accountant General, Khyber Pakhtunkhwa, Peshawar.
- 5- The Director of (E&SE) Department, Khyber Pakhtunkhwa, Peshawar.

 RESPONDENTS

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ACTION OF THE RESPONDENTS BY ILLEGALLY AND UNLAWFULLY DEDUCTING THE CONVEYANCE ALLOWANCE OF THE APPELLANT DURING WINTER & SUMMER VACATIONS AND AGAINST NO ACTION TAKEN ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS.

PRAYER:

That on acceptance of this appeal the respondents may kindly be directed not to make deduction of conveyance allowance during vacations period (Summer & Winter Vacations) and make the payment of all outstanding amount of Conveyance allowance which have been deducted previously with all back benefits. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

R/SHEWETH: ON FACTS:

- 1- That the appellant is serving in the Elementary & Secondary Education Department as PSHT (BPS-15) quite efficiently and up to the entire satisfaction of their superiors.
- 2- That the Conveyance Allowance is admissible to all the Civil Servants and to this effect a Notification No. FD (PRC)1-1/2011 dated 14.07.2011 was issued. That later on vide revised Notification dated 20.12.2012 whereby the conveyance allowance for employees

- 5- That appellant also filed Departmental appeal before the appellate for redressal of his grievances in light of the principle of consistency but no reply has been received from the quarter concerned. That appellant feeling aggrieved and having no other remedy filed the instant service appeal on the following grounds amongst the others. Copy of the Departmental appeal is attached as annexure.

GROUNDS:

- A- That the action and inaction of the respondents regarding deduction of conveyance allowance for vacations period/months is illegal, against the law, facts, norms of natural justice.
- B- That the appellant have not been treated by the respondent Department in accordance with law and rules on the subject noted above and as such the respondents violated Article 4 and 25 of the constitution of Islamic Republic of Pakistan 1973.
- C- That the action of the respondents is without any legal authority, discriminatory and in clear violation of fundamental rights duly conferred by the Constitution and is liable to be declared as null and void.
- D- That there is clear difference between leave and vacation as leave is applied by the Civil Servant in light Government Servant Revised Leave Rules, 1981 while the vacations are always announced by the Government, therefore under the law and Rules the appellant fully entitled for the grant of conveyance allowance during vacations period.

- E- That the Government Servants Revised Leave Rules, 1981 clearly explain that the civil servants who avail the vacations are allowed only one leave in a month whereas, the other civil servants may avail 04 days leave in a calendar months and the same are credited to his account and in this way he may avail 48 days earned leave with full pay, whereas the Government servants to avail vacation such as appellant is allowed one day leave in a month and twelve (12) days in a year and earned leave for twelve days in a year are credited to his account and there is no question of deduction of conveyance allowance for vacation period, the respondents while making the deduction of conveyance allowance lost sight of this legal aspects and illegally and without any authority started the recovery and deduction of conveyance allowance from appellant.
- F- That as the act of the respondents is illegal, unconstitutional, without any legal authority and not only discriminatory but is also the result of malafide on the part of respondents.
- G- That appellant has the vested right of equal treatment before law and the act of the respondents to deprive the petitioners from the conveyance/allowance is unconstitutional and clear violation of fundamental rights.
- H- That according to Government Servants Revised leave Rules, 1981 vacations are holidays and not leave of any kind, therefore, the deduction of conveyance allowance in vacations is against the law and rules.
- I- That according to Article 38 (e) of the Constitution of Islamic Republic of Pakistan, 1973 the state is bound to reduce disparity in the income and earning of individuals including persons in the services of the federation, therefore in light of the said Article the appellant fully entitle for the grant of conveyance allowance during vacations.
- J- That the petitioners seeks permission of this Honorable Court to raise any other grounds available at the time of arguments.

It is therefore, most humbly prayed that the appeal of the appellant may be accepted as prayed for.

APPEĻLANT

FAZAL ÜR RAHMAN

THROUGH:

KAMKAN KHAN ADVOCATES BETTER COPY PAGE- 4

GOVERNMENT OF KHYBER PAKHTUNKHWA FINANCE DEPARTMENT (REGUALITON WING)

20

NO.FD/SO(SR-II)/52/2012 Dated Peshawar the: 20.12.2012

From

The Secretary to Govt: of Khyber Pakhtunkhwa. Finance Department, Peshawar.

Ťο:

- 1. All administrative Secretaries to Govt: of Khyber Pakhtunkhwa.
- 2. The Senior Member, Board of Revenue, Khyber Pakhtunkhwa.
- 3. The Secretary to Governor, Khyber Pakhtunkhwa.
- 4. The Secretary to Chief Minister, Khyber Pakhtunkhwa.
- 5. The Secretary, Provincial Assembly, Khyber Pakhtunkhwa.
- 6. All Heads of attached Departments in Khyber Pakhtunkhwa.
- 7. All District Coordination Officers of Khyber Pakhtunkhwa.
- S. All Political Agents/District & Session Judge in Khyber Pakhtunkhwa...
- 9. The Registrar Peshawar High Court, Peshawar.
- 10/ The Chairman Public Service Commission, Khyber Pakhtunkhwa.
- 11. The Chairman, Service Tribunal, Khyber Pakhtunkhwa.

Subject: REVISION IN THE RATE OF CONVEYANCE ALLOWANCE FOR THE CIVIL EMPLOYEES OF THE KHYBER PAKHTUNKHWA, PROVINCIAL GOVERNMENT BPS-1-19

Dear Sir.

The Government of Khyber Pakhtunkhwa has been pleased to enhance/revise the rate of Conveyance Allowance admissible to all the Provincial Civil Servants Govt: of Khyber Pakhtunkhwa (working in BPS-1 to BPS-15) w.e.f from 1st September, 2012 at the following rates. However, the conveyance allowance for employees in BPS-16 to BPS-19 will remain unchanged.

S.No.	BPS	Existing Rate (PM)	Revised Rate (PM)
1.	14	Rs. 1,500/-	Rs. 1,700/-
2.	5-10	Rs. 1,500/-	Rs. 1,840/-
3 . 3.	11-15	Rs. 2.000/-	Rs. 2,720/-
4.	16-19	Rs. 5,000/-	Rs. 5,000/-

2. Conveyance Allowance at the above rates per month shall be admissible to those BPS-17, 18 and 19 officers who have not been sanctioned official vehicle.

Your Faithfully

(Sahibzada Saeed Ahmad) Secretary Finance

Endst No. FD/SO(SR-II)8-52/2012 Dated Peshawar the 20th December, 2012



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Yours Feathfully

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Dist. Govt. NWFP-Provincial **District Accounts Office Shangla** Monthly Salary Statement (August-2019)





Personal Information of Mr FAZAL UR RAHMAN d/w/s of ANWARUL HAQ

Personnel Number: 00572962

CNIC: 1560256574819

Date of Birth: 07.03.1972

Entry into Govt. Service: 02.12.2006

Length of Service: 12 Years 09 Months 000 Days

Employment Category: Vocational Temporary

Designation: PRIMARY SCHOOL HEAD TEACH

80004393-DISTRICT GOVERNMENT KHYBE

DDO Code: SH6059-DDO (M) PRIMARY-ALPURAI

Payroll Section: 001

GPF Section: 001

Cash Center: 12

157,340.00

GPF A/C No:

Interest Applied: No

GPF Balance:

Vendor Number: -

Pay and Allowances:

Pay scale: BPS For - 2017

Pay Scale Type: Civil BPS: 15

Pay Stage: 6

	Wage type	Amount		Wage type	- Amount
0001	Basic Pay .	24,100.00	1000	House Rent Allowance	2,349.00
1300	Medical Allowance	1,500.00	1911	Compen Allow 20% (1-15)	1,000.00
2148	15% Adhoc Relief All-2013	461.00	2199	Adhoc Relief Allow @10%	· 318.00
2211	Adhoc Relief All 2016 10%	1,664.00	2224	Adhoc Relief All 2017 10%	2,410.00
2247	Adhoc Relief All 2018 10%	2,410.00	2264	Adhoc Relief All 2019 10%	2,410.00

Deductions - General

	Wage type	Amount		Wage type	Amount
3015	GPF Subscription	-2,890.00	3501	Benevolent Fund	-600.00
3990	Emp.Edu. Fund KPK	-125.00	4004	R. Benefits & Death Comp:	-1,052.00

Deductions - Loans and Advances

Loan		Description		Pri	ncipal amount	Deduction	Balance
<u> </u>	s - Income Tax	Recovered till AUG-2019:	į.	0.00	Exempted: 0.00	Recoverable:	0.00

-4,667.00

Gross Pay (Rs.): 38,622.00

Payee Name: FAZAL UR RAHMAN

Account Number: 4146898675 Bank Details: NATIONAL BANK OF PAKISTAN, 231934 NBP ALPURAI SHANGLA NBP ALPURAI SHANGLA,

Opening Balance:

Availed:

Deductions: (Rs.):

Earned:

Balance:

Net Pay: (Rs.):

Permanent Address:

City: SHANGLA

Domicile: -

Housing Status: No Official

33,955,00

Temp. Address:

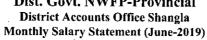
City:

Email: rahmanfazalur55@gmail.com

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* All amounts are in Pak Ruped * Errors & omissions excepted

Dist. Govt. NWFP-Provincial **District Accounts Office Shangla**



Personal Information of Mr FAZAL UR RAHMAN d/w/s of ANWARUL HAQ

Personnel Number: 00572962

CNIC: 1560256574819

Date of Birth: 07.03.1972

Entry into Govt. Service: 02.12.2006

NTN:

Length of Service: 12 Years 07 Months 000 Days

Employment Category: Vocational Temporary

Designation: PRIMARY SCHOOL HEAD TEACH

DDO Code: SH6059-DDO (M) PRIMARY ALPURAI

Interest Applied: No

Payroll Section: 001

GPF Section: 001

Cash Center: 12

GPF Balance:

80004393-DISTRICT GOVERNMENT KHYBE

151,560.00

Vendor Number: -

GPF A/C No:

Pay and Allowances:

Pay scale: BPS For - 2017

Pay Scale Type: Civil

BPS: 15

Pay Stage: 6

	Wage type	Amount	Wage type	Amount
0001	Basic Pay	24,100.00	1000 House Rent Allowance	2,349.00
1210	Convey Allowance 2005	2,856.00	1300 Medical Allowance	1,500.00
1911	Compen Allow 20% (1-15)	1,000.00.	2148 15% Adhoc Relief All-2013	461.00
2199	Adhoc Relief Allow @10%	318.00	2211 Adhoc Relief All 2016 10%	1,664.00
2224	Adhoc Relief All 2017 10%	2,410.00	2247 Adhoc Relief All 2018 10% •	2,410.00

Deductions - General

Wage type Amount			Wage type	Amount	
3015	GPF Subscription - Rs2890	-2,890.00	3501	Benevolent Fund	-600.00
3609	Income Tax	-66.00	3990	Emp.Edu. Fund KPK	-125.00
4004	R. Benefits & Death Comp:	-1,052.00	4200	Professional Tax	-200.00

Deductions - Loans and Advances

Loan	Description	Principal amount	Deduction	Balance

Deductions - Income Tax

Payable:

1,000.00

Recovered till JUN-2019:

600.00

Exempted: 400.00

Recoverable:

34,135.00

0.00

Gross Pay (Rs.): 39,068.00

Payee Name: FAZAL UR RAHMAN

Account Number: 4146898675 Bank Details: NATIONAL BANK OF PAKISTAN, 231934 NBP ALPURAI SHANGLA NBP ALPURAI SHANGLA,

Leaves:

Opening Balance:

Availed:

Deductions: (Rs.):

Earned:

-4,933.00

Balance:

Net Pay: (Rs.):

Permanent Address:

City: SHANGLA

Domicile: -

.Housing Status: No Official

Temp. Address:

City:

Email: rahmanfazalur55@gmail.com

System generated document in accordance with APPM 4.6.12.9 (SERVICES/27.06.2019/16:45:38/v1.1)
* All amounts are in Pak Rupees
* Errors & omissions excepted

FAZAL RAHMAN.

5/0

ANWAR UL HAQ.

PSHT GPS Shangla. Tehsil Alpuri Distt: Shangla.

Court. CNO -> Fresh.

Contact: 034696977

03469479796

03339473216.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBINAL

PESHAWAR

APPEAL NO. 1452 /2019

Mr. Maqsad Hayat, SCT (BPS-16), GHS Masho Gagar, Peshawar......

VERSUS

1- The Government of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa, Peshawar.

2- The Secretary (E&SE) Department, Khyber Pakhtunkhwa, Peshawar.

3- The Secretary Finance Department, Khyber Pakhtunkhwa, Peshawar.

4- The Accountant General, Khyber Pakhtunkhwa, Peshawar.

5- The Director (E&SE) Department, Khyber Pakhtunkhwa, Peshawar. RESPONDENTS

APPEAL UDNER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ACTION OF THE RESPONDENTS BY ILLEGALLY AND UNLAWFULLY DEDUCTING THE CONVEYANCE ALLOWANCE APPELLANT DURING WINTER & SUMMER OF THE VACATIONS AND AGAINST NO ACTION TAKEN ON THE DEPARTMENTAL APPEAL OF APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS.

PRAYER:

That on acceptance of this appeal the respondents may kindly be directed not to make deduction of conveyance allowance during vacations period (Summer & Winter Vacations) and make the payment of all outstanding amount Conveyance allowance which have been deducted Fledte-daypreviously with all back benefits. Any other remedy which this august Tribunal deems fit that may also be awarded in Registrar favor of the appellant.

R/SHEWETH:

ATTESTON FACTS:

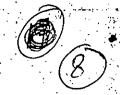
24/10/16

1- That the appellant is serving in the elementary and secondary ENAMER education department as Certified Teacher (BPS-15) quite efficiency KIND Pakhonking and up to the entire satisfaction of the superiors.

Frence Tribunal. 2- That the Conveyance Allowance is admissible to all the civil servants and to this effect a Notification No. FD (PRC) 1-1/2011 dated 14.07.2011 was issued. That later ion vide revised Notification dated 20.12.2012 whereby the conveyance allowance for employees

11.11.2019

Appeal No. 1452/2019 Markad Hayat vs Govt



Counsel for the appellant present.

Learned counsel referred to the judgment passed by learned Federal. Service Tribunal in Appeal No. 1888(R)CS/2016 which was handed down on 03.12.2018. Through the said judgment the issue of payment of Conveyance Allowance to a civil servant during summer and winter vacations was held to be within his entitlement and the deduction already made from him was to be reimbursed. Similar reference was made to the judgment by Honourable Peshawar High Court passed on 01.10.2019 in the case of appellant.

Learned counsel, when confronted with the proposition that the issue, in essence, was dilated upon by the Federal Service Tribunal and, more particularly, by the Honourable Peshawar High Court in the case of appellant, stated that in case the respondents are required to execute the judgment of Peshawar High Court, the appellant will have no cavil about disposal of instant appeal.

The record suggests that while handing down judgment in the Writ Petition preferred by the appellant, the Honourable High Court not only expounded the definition of "Pay" as well as "Salary" but also entitlement of a civil servant for the Conveyance Allowance during the period of vacations. It is important to note that the respondents were represented before the High Court during the proceedings.

In view of the above noted facts and circumstances and in order to protect the appellant from a fresh round of litigation which may protract over a formidable period, the appeal in hand is disposed of with observation that the judgment of Honourable Peshawar High Court passed in Writ Petitions including W.P. No. 3162-P/2019 shall be honoured and implemented by the respondents within shortest possible time. The appellant shall, however, be at liberty to seek remedy in accordance with law in case his grievance is not redressed by the respondents within a reasonable time.

File be consigned to the record.

Chairman

ANNOUNCED

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Peshawar

11.11.2019

To,

The Director, (E&SE) Department. Khyber Pakhtunkhwa, Peshawar,

Subject:

DEPARTMENTAL APPEAL AGAINST THE IMPUGNED ACTION OF THE CONCERNED AUTHORITY BY ILLEGALLY AND UNLAWFULLY **DEDUCTING THE CONVEYANCE ALLOWANCE DURING WINTER & SUMMER VACATIONS**

Respected Sir,

With due respect it is stated that I am the employee of your good self Department and is serving as PSHT (BPS-15) quite efficiency and up to the entire satisfaction of the superiors. It is stated for kind information that Conveyance Allowance is admissible to all the civil servants and to this effect a Notification No. FD (PRC) 1-1/2011 dated 14.07.2011 was issued. Later on vide revised Notification dated 20.12.2012 whereby the conveyance allowance for employees working in BPS 1 to 15 were enhance/revised while employees from BPS-16 to 19 have been treated under the previous Notification by not enhancing their conveyance allowance. Respected Sir, I was receiving the conveyance allowance as admissible under the law and rules but the concerned authority without any valid and justifiable reasons stopped/deducted the payment of conveyance allowance under the wrong and illegal pretext that the same is not allowed for the leave period. One of the employee of Education Department in Islamabad filed service appeal No.1888 (R) CS/2016 before the Federal Service Tribunal, Islamabad regarding conveyance allowance which was accepted by the Honorable Service Tribunal vide its judgment dated 03.12.2018. That I also the similar employee of Education Department and under the principle of consistency I am also entitled for the same treatment meted out in the above mentioned service appeal but the concerned authority is not willing to issue/grant the same conveyance allowance which is granting to other employees. Copy attached. I am feeling aggrieved from the action of the concerned authority regarding deduction of conveyance allowance in vacations period/months preferred this Departmental appeal before your good self.

It is therefore, most humbly prayed that on acceptance of this Departmental appeal the concerned authority may very kindly be directed the conveyance allowance may not be deducted from my monthly salary during the winter & summer vacations.

Dated: 25.08.2020

Your Obediently

FAZAL UK KAHMAN, PŠHI

GPS Shangal, Distt: Shangla

VAKALATNAMA

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TIBUNAL, PESHAWAR

OF 2	2020
Fazal Ur Rahman	(APPELLANT) (PLAINTIFF) (PETITIONER)
<u>VERSUS</u>	
Education Department	(RESPONDENT) (DEFENDANT)
I/We Fazal Ur Rahman Do hereby appoint and constitute KAMRAN Peshawar to appear, plead, act, compromise, arbitration for me/us as my/our Counsel/Advocate matter, without any liability for his default and engage/appoint any other Advocate Counsel or authorize the said Advocate to deposit, withdraw a behalf all sums and amounts payable or deposited the above noted matter.	withdraw or refer to e in the above noted with the authority to my/our cost. I/we and receive on my/our on my/our account in
Dated/2020 CLIE	and en flatera

ACCEPTED
KAMRAN KHAN
ADVOCATES

OFFICE: Flat No.4, 2nd Floor, Juma Khan Plaza, Near FATA Secretariat, Warsak Road, Peshawar. Mobile No.0344-9118844